

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 924

Introduced by Senator Speier

February 22, 2005

An act to amend Sections ~~310.6, 11100, 11102.5, and 11104.5 of, and to add Section 11102.7 to, 94832 and 94925 of the Education Code, and to add Section 15250.1 to the Vehicle Code, relating to driving schools vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, Speier. Driving schools: commercial trucks.

(1) Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. By its own terms, the act becomes inoperative on July 1, 2007, and is repealed as of January 1, 2008.

An existing provision of the act, among other things, governs the operations and conduct of private postsecondary and vocational institutions relating to advertising activities directed at, recruitment of, and compensation for, potential students. Any person or business entity that willfully violates those provisions is guilty of a crime.

This bill would prohibit an institution or representative of an institution, as specified, from reducing the wages of a trainee in order to recover the cost of training unless specified conditions are met. The

bill would also prohibit the institution from advertising its training as free if a trainee is required to enter into specified agreements in order to receive the training. A willful violation of these provisions would be a crime, thus, the bill would create a state-mandated local program.

(2) An existing provision of the act prohibits any person from owning or operating a school, or giving instruction, for the driving of motortrucks with 3 or more axles and an unladen weight of more than 6,000 pounds unless specified conditions are met.

This bill would instead prohibit any person from owning or operating a school, or giving instruction, intended to lead to the issuance of a commercial driver's license for motortrucks with 2 or more axles and an unladen weight of more than 6,000 pounds unless those specified conditions are met. The bill would add to that list of conditions, requirements relating to student instruction and would require the school to communicate to the students the cost of training, including all obligations relating to employment.

(3) Existing law prohibits a person from operating a commercial motor vehicle, as defined, unless the person has in his or her immediate possession a valid commercial driver's license of the appropriate class and an endorsement issued by the Department of Motor Vehicles to permit the operation of the vehicle, except as specified.

Existing law prohibits the issuance of a commercial driver's license until the applicant for the license has passed a written and driving test for the operation of a commercial motor vehicle, as specified.

Existing law requires the test to be conducted by, or under the direction of, the department, but authorizes the department to allow a 3rd-party tester to administer the driving test part of the examination if certain conditions are met.

This bill commencing January 1, 2008, would require every applicant for a commercial driver's license to operate a motortruck with 2 or more axles and an unladen weight of more than 6,000 pounds to present to the department or to an approved 3rd-party testing center a certificate evidencing completion of a course of instruction in the operation of that vehicle. The bill would require the certificate to be issued by a driving school or other entity approved by the Bureau for Private Postsecondary and Vocational Education. The bill would also require applicants to present the certificate to the department or to an approved 3rd-party testing center before the

applicant is allowed to take the test for a commercial driver's license to operate a motortruck.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Existing law exempts a school and the giving of instruction for driving of certain motortrucks from the licensing requirement for a driving school or instructor.~~

~~This bill would remove that exemption and require the owner of a driving school that provides, or person who, for compensation gives, instruction to an individual in the operation of a commercial truck to register with the Department of Motor Vehicles as a truck driver training center. The bill would redefine "driving school" to include a company that engages in the business of transporting commercial goods on public rights-of-way if it instructs an individual in the operation of a commercial truck.~~

~~This bill would require the truck driver training center to provide a trainee with minimum instruction time, as specified. The bill would impose certain restrictions relating to the costs of training and the wages of trainees on the truck driver training center, as specified. The bill would require the truck driver training center to maintain records of its compliance with the training cost and wage provisions for at least one year after the completion of a trainee's training. The bill would require the Department of Motor Vehicles to audit each truck training center at least once every 2 years to ensure compliance with the training and related cost and wage requirements.~~

~~Because a violation of the Vehicle Code is currently a crime, this bill would impose a state-mandated local program by creating a new crime. In addition, the bill would impose civil penalties, as specified, upon a truck driver training center that violates the training and related cost and wage requirements.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION. 1. Section 94832 of the Education Code is
2 amended to read:

3 94832. (a) No institution or representative of an institution
4 shall make or cause to be made any statement that is in any
5 manner untrue or misleading, either by actual statement,
6 omission, or intimation.

7 (b) No institution or representative of an institution shall
8 engage in any false, deceptive, misleading, or unfair act in
9 connection with any matter, including the institution's
10 advertising and promotion, the recruitment of students for
11 enrollment in the institution, the offer or sale of a program of
12 instruction, course length, course credits, the withholding of
13 equipment, educational materials, or loan or grant funds from a
14 student, training and instruction, the collection of payments, or
15 job placement.

16 (c) An institution is liable in any civil or administrative action
17 or proceeding for any violation of this article committed by a
18 representative of the institution. An institution is liable in a
19 criminal action for violations of this article committed by a
20 representative of the institution to the extent permitted by law.

21 (d) (1) No institution or representative of an institution shall
22 induce a person to enter into an agreement for a program of
23 instruction by offering to compensate that person to act as the
24 institution's representative in the solicitation, referral, or
25 recruitment of others for enrollment in the institution.

26 (2) No institution or representative of an institution shall offer
27 to pay or pay any consideration to a student or prospective
28 student to act as a representative of the institution with regard to
29 the solicitation, referral, or recruitment of any person for
30 enrollment in the institution in either of the following:

31 (A) During the 60-day period following the date on which the
32 student began the program.

33 (B) At any subsequent time, if the student has not maintained
34 satisfactory academic progress in acquiring the necessary level of
35 education, training, skill, and experience to obtain employment in

1 the occupation or job title to which the program is represented to
2 lead. The institution shall have the burden of proof to establish
3 that the student has maintained satisfactory academic progress.

4 (e) No institution shall compensate a representative involved
5 in recruitment, enrollment, admissions, student attendance, or
6 sales of equipment to students on the basis of a commission,
7 commission draw, bonus, quota, or other similar method except
8 as follows:

9 (1) If the program of instruction is scheduled to be completed
10 in 90 days or less, the institution shall pay compensation related
11 to a particular student only if that student completes the course.

12 (2) If the program of instruction is scheduled to be completed
13 in more than 90 days, the institution shall pay compensation
14 related to a particular student as follows:

15 (A) No compensation shall be paid for at least 90 days after
16 that student has begun the program.

17 (B) Up to one-half of the compensation may be paid before the
18 student completes the program only if the student has made
19 satisfactory academic progress, documented by the institution in
20 the student's file, for more than 90 days.

21 (C) The remainder of the compensation shall be paid only after
22 the student's completion of the program. This subdivision shall
23 not prevent the payment at any time of an hourly, weekly,
24 monthly, or annual wage or salary.

25 (f) No institution or representative of an institution shall pay
26 any consideration to a person to induce that person to sign an
27 agreement for a program of instruction.

28 (g) No institution shall use a misleading name in any manner
29 implying any of the following:

30 (1) The institution is affiliated with any governmental agency,
31 public or private corporation, agency, or association.

32 (2) The institution is a public institution.

33 (3) The institution grants degrees.

34 (h) (1) No institution or any representative of an institution
35 shall in any manner make any untrue or misleading change in, or
36 untrue or misleading statement related to, any test score, grade,
37 record of grades, attendance record, record indicating student
38 completion or employment, financial information, including any
39 of the following:

1 (A) Any financial report required to be filed pursuant to
2 Sections 94804 to 94808, inclusive.

3 (B) Any information or record relating to the student's
4 eligibility for financial assistance or attendance at the institution.

5 (C) Any other record or document required by this chapter or
6 by the council.

7 (2) No institution or any representative of an institution shall
8 falsify, destroy, or conceal any record or other item described in
9 paragraph (1) while that record or item is required to be
10 maintained by this chapter or by the council.

11 (i) No institution or representative of an institution shall use
12 the terms "approval," "approved," "approval to operate," or
13 "approved to operate" without stating clearly and conspicuously
14 that approval to operate means compliance with minimum state
15 standards and does not imply any endorsement or
16 recommendation by the state or by the council. If the council has
17 granted an institution approval to operate, the institution or its
18 representative may indicate that the institution is "licensed" or
19 "licensed to operate" but may not state or imply any of the
20 following:

21 (1) The institution or its programs of instruction are endorsed
22 or recommended by the state or by the council.

23 (2) The council's grant to the institution of approval to operate
24 indicates that the institution exceeds minimum state standards.

25 (3) The council or the state endorses or recommends the
26 institution.

27 (j) No institution offering programs or courses of instruction
28 represented to lead to occupations or job titles requiring licensure
29 shall enter into an agreement for a course of instruction with a
30 person whom the institution knows or, by the exercise of
31 reasonable care, should know, would be ineligible to obtain
32 licensure in the occupation or job title to which the course of
33 instruction is represented to lead, at the time of the scheduled
34 date of course completion, for reasons such as age, physical
35 characteristics, or relevant past criminal conviction.

36 (k) No institution shall divide or structure a program of
37 instruction or educational service to avoid the application of any
38 provision of this chapter.

39 (l) No institution or representative of an institution shall direct
40 a representative to perform any unlawful act, to refrain from

1 complaining or reporting unlawful conduct to the council or
2 another government agency, or to engage in any unfair act to
3 persuade a student not to complain to the council or another
4 government agency.

5 *(m) No institution or representative of an institution approved*
6 *to operate a school or give instruction pursuant to Section 94925*
7 *shall do either of the following:*

8 *(1) Reduce the wages of a trainee in order to recover the cost*
9 *of training unless the trainee is advised of the payment*
10 *arrangement before accepting employment.*

11 *(2) Advertise its training as free or no cost if a trainee is*
12 *required to enter into an employment arrangement or lease or*
13 *rent services or equipment, including a motortruck, as a*
14 *condition of receiving the training.*

15 *SEC. 2. Section 94925 of the Education Code is amended to*
16 *read:*

17 94925. No person shall own or operate a school, or give
18 instruction, ~~for the driving of motortrucks intended to lead to the~~
19 ~~issuance of a commercial driver's license for motortrucks with~~
20 ~~two or more axles that are and an unladen weight of more than~~
21 ~~6,000 pounds—unladen weight~~ unless all of the following
22 conditions are met:

23 (a) The school or instruction has been approved by the
24 council.

25 (b) The school, at the time of application and thereafter,
26 maintains both of the following:

27 (1) Proof of compliance with liability insurance requirements
28 that are the same as those established by the Department of
29 Motor Vehicles for a driving school owner, pursuant to Section
30 11103 of the Vehicle Code, unless the council deems it necessary
31 to establish a higher level of insurance coverage.

32 (2) A satisfactory safety rating by the Department of the
33 California Highway Patrol is established pursuant to Division
34 14.8 (commencing with Section 34500) of the Vehicle Code.

35 (c) The school, at all times, shall maintain the vehicles used in
36 driver training in safe mechanical condition. The school shall
37 keep all records concerning the maintenance of the vehicles.

38 (d) The driving instructors meet the requirements set forth in
39 Section 11104 of the Vehicle Code.

1 (e) *The school provides each student with a minimum of 120*
2 *hours of classroom instruction and a minimum of 40 hours of*
3 *behind-the-wheel instruction. As used in this subdivision,*
4 *“behind-the-wheel instruction” means time spent by the student*
5 *physically operating a motortruck on a public or private road*
6 *where he or she is physically responsible for operating the*
7 *motortruck. For the purposes of this subdivision, each hour of*
8 *instruction may include up to 10 minutes of noninstruction time*
9 *for student breaks.*

10 (f) *The school restricts student instruction to 10 hours or less*
11 *in any 24-hour period and 50 hours or less in any consecutive*
12 *seven-day period.*

13 (g) *The school provides each prospective student with a clear*
14 *and unambiguous rate schedule documenting the cost of the*
15 *training, including all obligations relating to employment.*

16 ~~(e)~~

17 (h) *Any other terms and conditions required by the council to*
18 *protect the public safety or to meet the requirements of this*
19 *chapter.*

20 SEC. 3. *Section 15250.1 is added to the Vehicle Code, to*
21 *read:*

22 15250.1. *Effective January 1, 2008, every applicant for a*
23 *commercial driver’s license to operate a motortruck with two or*
24 *more axles and an unladen weight of more than 6,000 pounds*
25 *shall be required to present to the department or to an approved*
26 *third-party testing center a certificate evidencing completion of a*
27 *course of instruction in the operation of that vehicle. The*
28 *certificate shall be from a driving school or other entity*
29 *approved by the Bureau for Private Postsecondary and*
30 *Vocational Education pursuant to Chapter 7 (commencing with*
31 *Section 94700) of Part 59 the Education Code and shall be*
32 *presented to the department or to an approved third-party testing*
33 *center before the applicant is allowed to take the test for a*
34 *commercial driver’s license to operate a motortruck.*

35 SEC. 4. *No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the*
40 *penalty for a crime or infraction, within the meaning of Section*

1 *17556 of the Government Code, or changes the definition of a*
2 *crime within the meaning of Section 6 of Article XIII B of the*
3 *California Constitution.*

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6 **All matter omitted in this version of the bill**
7 **appears in the bill as amended in Senate,**
8 **April 4, 2005 (JR11)**
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